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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/017,995	12/14/2001	Robert L. Bratzler	C1037/7025(HCL/MAT)	7158	
7:	590 10/06/2003		EXAM	INER	
Maria A. Trevisan c/o Wolf, Greenfield & Sacks, P.C.			MINNIFIELD, NITA M		
Federal Reserve Plaza			ART UNIT	PAPER NUMBER	
600 Atlantic Av Boston, MA			1645	10	
•			DATE MAILED- 10/06/2002		

Please find below and/or attached an Office communication concerning this application or proceeding.

		Application N	o. Applicant(s)
		10/017,995	BRATZLER, ROBERT L.
	Office Action Summary	Examiner	Art Unit
		N. M. Minnifield	, , , , ,
Period fo	Th MAILING DATE of this communication app or Reply	ears on the cov	er sh et with the correspondence address
- External formation of the control	ORTENED STATUTORY PERIOD FOR REPLY MAILING DATE OF THIS COMMUNICATION. Insions of time may be available under the provisions of 37 CFR 1.13 SIX (6) MONTHS from the mailing date of this communication. It is period for reply specified above is less than thirty (30) days, a reply of period for reply is specified above, the maximum statutory period is period for reply within the set or extended period for reply will, by statute, reply received by the Office later than three months after the mailing and patent term adjustment. See 37 CFR 1.704(b).	36(a). In no event, how within the statutory make the apply and will expirate the application.	wever, may a reply be timely filed ninimum of thirty (30) days will be considered timely. re SIX (6) MONTHS from the mailing date of this communication.
1)🖂	Responsive to communication(s) filed on 22 A	March 2002 .	
2a)[is action is non-	final.
3) <u></u> Dispositi	/—	nce except for	formal matters, prosecution as to the merits is
4)🖂	Claim(s) 1-18,53 and 66 is/are pending in the	application.	
	4a) Of the above claim(s) is/are withdraw		eration.
	Claim(s) is/are allowed.		
6)	Claim(s) is/are rejected.		
7)	Claim(s) is/are objected to.		
	Claim(s) 1-18,53 and 66 are subject to restriction	on and/or election	on requirement
Application	on Papers		on requirement.
9)[] 7	The specification is objected to by the Examiner	•	
10)□ Т	The drawing(s) filed on is/are: a)☐ accept	ted or b)□ objec	sted to by the Examiner.
	Applicant may not request that any objection to the		
11)[] T			red b) disapproved by the Examiner.
	If approved, corrected drawings are required in repl	y to this Office a	ction.
12) T	he oath or declaration is objected to by the Exa	ıminer.	
Priority u	nder 35 U.S.C. §§ 119 and 120		
13) 🗌 🛚	Acknowledgment is made of a claim for foreign	priority under 3	5 U.S.C. § 119(a)-(d) or (f).
	☐ All b)☐ Some * c)☐ None of:		-
	1. Certified copies of the priority documents	have been rece	eived.
2	2. Certified copies of the priority documents		
	3. Copies of the certified copies of the priority application from the International Buresee the attached detailed Office action for a list of the action for a list of	ty documents ha	ave been received in this National Stage
	cknowledgment is made of a claim for domestic		
a) 15)∐ A∈	\square The translation of the foreign language prov cknowledgment is made of a claim for domestic	isional applicati	ion has been received
Attachment(s)		
2) Notice 3) Informa	of References Cited (PTO-892) of Draftsperson's Patent Drawing Review (PTO-948) ation Disclosure Statement(s) (PTO-1449) Paper No(s)	4)	Interview Summary (PTO-413) Paper No(s) Notice of Informal Patent Application (PTO-152) Other:
S. Patent and Trac TOL-326 (Rev	0.4.0.4	on Summary	Part of Paper No. 10

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DETAILED ACTION

Applicant's preliminary amendment filed March 22, 2002 is acknowledged and has been entered. Claims 19-52, 54-65 and 67-74 have been canceled. Claims 1-18, 53 and 66 are now pending in the present application.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- Claims 1-18, drawn to method of inhibiting angiogenesis in a subject comprising administering a nucleic acid molecule, classified in class 514, subclass 44.
- II. Claims 53 and 66, drawn to pharmaceutical composition and kit, classified in class 536, subclass 23.1.

The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the process for using the product as claimed can be practiced with another materially different product. For example, antigenic proteins (tumor antigens) or antibiotics can be used in the method of inhibiting angiogenesis in a subject. Further, the nucleic acid molecule (i.e. CpG) can be used in methods of treating other diseases (asthma or allergic reactions) or ailments or as an adjuvant.

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Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for Group one is not required for Group two, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

This application contains claims directed to the following patentably distinct species of the claimed invention: for each invention (Group I or II) Applicant should elect up to 10 (ten) SEQ ID NO for examination.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

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Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to N. M. Minnifield whose telephone number is 703-305-3394. The examiner can normally be reached on M-F (8:00-5:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynette R.F. Smith can be reached on 703-308-3909. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

Primary Examiner

Art Unit 1645

NMM

October 1, 2003